

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JERROD GREGORY BLACKWELL,  
Petitioner,  
v.  
BRYAN E. WILLIAMS, *et al.*  
Respondents.

Case No. 2:12-cv-00687-MMD-VCF

ORDER

Petitioner Jerrod Blackwell filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (dkt. no. 1) and the Court entered an order directing petitioner to show cause why its filing was not untimely under 28 U.S.C. § 2244(d). The period of time allowed for petitioner's response has expired and petitioner has not filed his response or sought any enlargement of the time granted for doing so. Based on the Court's review of the petition pursuant to Rule 4 of the Rules Governing Section 2254 Actions, and because petitioner has not taken the opportunity to present argument as to why the statute of limitations has not expired or excuse as to why the period should be tolled, the petition shall be dismissed as untimely.

Certificate of Appealability

The Court will deny petitioner a certificate of appealability. The standard for the issuance of a certificate of appealability calls for a "substantial showing of the denial of a

1 constitutional right.” 28 U.S.C. §2253(c). The Supreme Court has interpreted 28 U.S.C.  
2 §2253(c) as follows:

3 Where a district court has rejected the constitutional claims on the merits,  
4 the showing required to satisfy §2253(c) is straightforward: The petitioner  
5 must demonstrate that reasonable jurists would find the district court’s  
6 assessment of the constitutional claims debatable or wrong. The issue  
7 becomes somewhat more complicated where, as here, the district court  
8 dismisses the petition based on procedural grounds. We hold as follows:  
9 When the district court denies a habeas petition on procedural grounds  
10 without reaching the prisoner’s underlying constitutional claim, a COA  
11 should issue when the prisoner shows, at least, that jurists of reason  
12 would find it debatable whether the petition states a valid claim of the  
13 denial of a constitutional right and that jurists of reason would find it  
14 debatable whether the district court was correct in its procedural ruling.


15  
16 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); see also *James v. Giles*, 221 F.3d 1074,  
17 1077-79 (9th Cir. 2000). The Court finds that petitioner has not met this standard.

18 The Court finds that jurists of reason would not find debatable the question  
19 whether petitioner’s habeas corpus petition was filed within the time allowed by the one-  
20 year statute of limitations imposed by the Antiterrorism and Effective Death Penalty Act  
21 (AEDPA).

22 IT IS THEREFORE ORDERED that the petition is DISMISSED WITH  
23 PREJUDICE AS UNTIMELY.

24 IT IS FURTHER ORDERED that no Certificate of Appealability shall issue. The  
25 Clerk shall enter Judgment accordingly.

26 DATED THIS 22<sup>nd</sup> day of August 2012.

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28  
  
UNITED STATES DISTRICT JUDGE